

IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2021] EWCA Crim 846



No. 202001607 A4

Royal Courts of Justice

Thursday, 13 May 2021

Before:

LORD JUSTICE DINGEMANS

MR JUSTICE HOLGATE

HIS HONOUR JUDGE DICKINSON QC

(The Recorder of Nottingham)

REGINA

V

JAMES DAVID FLINDERS

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Non-counsel application

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**J U D G M E N T**

MR JUSTICE HOLGATE:

- 1 On 4 May 2012 in the Crown Court at Sheffield before HHJ Moore, the applicant was convicted and sentenced as follows: conspiracy to supply cocaine (Count 1), 14 years; conspiracy to supply amphetamine (Count 2) 4½ years; conspiracy to supply cannabis (Count 3) 2½ years; conspiracy to convert and converting criminal property (Counts 4 and 5) 1½ years, and perverting the course of justice (Count 6) 6 months. All the sentences were ordered to run consecutively, save that the sentences on Counts 4 and 5 were ordered to run concurrently to each other. Accordingly, the overall term of imprisonment was 23 years. The applicant renews his application for an extension of time of 2,928 days in which to apply for leave to appeal against sentence following refusal by the single judge.
- 2 The indictment related to offending which occurred in the main in 2010 and 2011. However, the offending related to converting criminal property covered the period 2007 to 2011. The applicant ran a drug supply organisation which involved liaising with others inside the UK and also Thailand.
- 3 Count 1: between July 2010 and May 2011, the applicant co-ordinated collections of high purity cocaine and supplied it to other local suppliers. The cocaine was diluted and re-pressed and supplied to lower level dealers. The amount involved was at least 4 to 6 kilograms.
- 4 Count 2: amphetamine and a cutting agent were buried at rural sites. The applicant sold the amphetamine to others and after his arrest in May 2011, police recovered 4 to 5 kilograms of amphetamine of low purity from the sites.
- 5 Count 3: covert recordings revealed the applicant was also involved in cannabis dealing. Although the overall quantity involved was not established, one batch alone contained 10 ounces and there were a number of 1-ounce supplies.
- 6 Counts 4 and 5: the applicant laundered the money he received from his drug dealing. He masqueraded as an employee of a co-accused and used the proceeds of his drug dealing to spend large sums on extensive works to a property. Only a proportion of the money was recovered.
- 7 Count 7: the applicant told the co-accused to give a false explanation for his presence in the area if the police spoke to him about it.
- 8 In his sentencing remarks the judge said the applicant had used his intelligence to build and run a drug supply empire. He had played a leading role in the Category 1 cocaine offence; a significant role in the low Category 1/high Category 2 amphetamine offence, and a leading role in the Category 3 cannabis offence. The applicant had also carefully constructed his laundering money so that the offending could not easily be identified. There was no doubt that Counts 4 and 5 added to his overall culpability. The applicant had an aggravating conviction for amphetamine and cannabis offences in 1995. The judge said that because certain sentences would run consecutively, the terms imposed for individual offences were less than they would otherwise have been.
- 9 The applicant was aged 48 at sentence. He had 13 convictions between 1980 and 2001, and in 1995 was sentenced to 4 years' imprisonment for 2 offences of possessing a Class B drug.
- 10 He seeks to rely upon two grounds of appeal previously drafted by counsel:

(1) The sentence imposed for the money laundering should have been

ordered to run concurrently. The money laundering evidenced no criminality additional to that encompassed within the conspiracies to supply Class A and B drugs;

- (2) In relation to the principle of totality, the sentences imposed for the money laundering and the attempt to pervert the course of justice should have been made concurrent. The total sentence of 23 years was manifestly excessive

11 The single judge refused leave to appeal saying:

"The sentences imposed by the judge on Counts 1, 2 and 3 are each within the appropriate bracket of sentences set by the guidelines on sentencing in drug cases and, as your counsel advised you, neither the individual sentences nor their consecutive nature is appealable. The focus of the May 2012 advice and of your present application is the consecutive nature of the sentences imposed on the money laundering offences [...] and on the offence of attempting to pervert the course of justice[...]

The sentences on Counts 4 and 5 are within the acceptable bracket of sentences for this offending, and where the facts of the money laundering counts add nothing to the criminality of the drugs offences, concurrent sentences may well be inappropriate. However, in your case the judge came to the clear conclusion that

'you had carefully constructed your affairs so as to launder the money in such a way that your offending could not easily be seen. There is no doubt in my view and I am satisfied so that I am sure about it, that Counts 4 and 5 add to your criminality.'

The judge had heard the evidence in the case and his conclusion on this matter is unassailable. Consecutive sentences were, therefore, appropriate.

It is wholly in accordance with sentencing principles that sentences for offences of attempting to pervert the course of justice are imposed consecutively to sentences on other offences, especially when the other offences are, as here, the reason for the attempt to pervert. The consecutive nature of the sentence on Count 6 is not wrong in principle.

The final question for the Court of Appeal is whether the overall sentence is manifestly excessive for the totality of your offending. These were very serious offences, and a lengthy term of imprisonment was inevitable. The judge had the principle of totality well in mind and your sentence is not manifestly excessive."

- (3) We entirely agree with the single judge. We also agree that no proper justification has been put forward for granting the very long extension of time needed in this case. Accordingly, we refuse the application for leave to extend time within which to seek leave to appeal against sentence.

**CERTIFICATE**

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge.